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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,882	09/25/2003	Randall R. Davis	DCS-9164	5761

34500 7590 09/29/2005

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LEGAL DEPARTMENT  
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DEERFIELD, IL 60015

EXAMINER

SODERQUIST, ARLEN

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/670,882

Applicant(s)

DAVIS, RANDALL R.

Examiner

Arlen Soderquist

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-31-03</u> . | 6) <input type="checkbox"/> Other: ____  |

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1. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 it is not clear to what extent "special symbols" includes or excluded letters, numbers and characters that would be available to use as an identifier. It is also not clear what constitutes an "additional identifier" since no other identifiers are listed as part of the claims. This examination treats all available characters as usable for the special symbols and treats a patient ID, component serial number or lot number as a special symbol that acts as an additional identifier of the object to be placed in the analyzer.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Knudsen (WO 85/02257). In the published application Knudsen teaches a clinical chemistry analyzer that determines the concentration of chemicals in body fluids. The system includes a disposable sensing device having a cavity for receiving and holding body fluid samples. The sensing device has a carrier supporting spaced species sensitive electrodes (16A-16D) and a sample container to form a single-use sensor which can fit into a receptacle in the analyzer and which has contacts for the electrodes and circuitry for processing signals and determining species concentration. The sensitive electrode has a conductor covered by and in direct contact with a single-layer membrane containing a reactant for the species of interest. The sensor preferably carries indicia readable by the analyzer and including calibration and other species-related data. The analyzer is preferably computer-controlled and may have a visual display and printer. As an advantage, the system is simpler operate, eliminates the need for an open flame and calibration, reducing drift and allowing use of unprocessed whole blood. Page 16, line 16 to page 17, line 2 and page 21, lines 3-16 discuss the code label (48) including machine-readable indicia including identifiers for each of the individual sensor present, calibration data and lot and/or serial number identifiers for the sensing device. When the code label is read by the analyzer, signals are provided to the analyzer that indicate the various chemical being sensed and the calibration data is stored for

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subsequent use (page 22).

4. Claims 1-2, 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Weyrauch (US 5,357,095). In the patent Weyrauch teaches a reagent bottle identification and reagent bottle monitoring system for a chemical analyzer. The automatic chemical analyzer utilizes reagents supplied in reagent bottles. The reagent bottles are labeled on their bottom surfaces with an identification label bearing a machine-readable identification code (figures 11-12). The automatic chemical analyzer includes a reagent tray having a plurality of tray apertures therein which receive coded reagent bottles and which expose the bottom surface of each bottle for optical viewing of the machine-readable identification code. The analyzer further includes optical scanner means positioned below the reagent tray for reading the machine-readable identification code on the bottom surfaces of reagent bottles within the tray apertures. The tray apertures are selectively located over the optical scanner means so that the analyzer can identify the reagent bottle and the contents thereof.

5. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Buhler (US 5,700,429). In the patent Buhler teaches a vessel holder for an automated analyzer. A vessel holder for receiving a number of vessels is useful in an automated analyzer. To increase the number of vessels which can be received in the analyzer and to simplify the device for reading bar code labels, the vessel holder has an elongate body manufactured in one piece and containing a single straight row of identical elongate chambers. Each chamber is for receiving one vessel. All chambers have a common base with respect to which they are perpendicularly disposed. Adjacent chambers are separated by a partition. The inside of a side wall of each chamber bears a first bar code label (44) for detecting the absence of a vessel in the chamber, and the outside of a side wall of each chamber bears a second bar code label (45) for detecting the position of the chamber in the vessel holder. The first and the second bar code labels are readable by a bar code reader from one and the same side of the vessel holder. The vessel also has a third barcode label (47) thereon that identified the number of the vessel holder and sample vessels (11) have a bar code label (48). Examples of these are shown in figure 6 with all of them having at least the character "\*" appearing twice in the coded information. Column 3, lines 61-67 teach that the description relative to the sample vessel holders also applies to the reagent

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vessel holders. Column 4 discusses how the information is read and communicated to the central control means of the analyzer.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additionally cited art relates to the use of barcodes in analyzers and the inclusion of data content identifiers in a barcode.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arlen Soderquist whose telephone number is (571) 272-1265. The examiner can normally be reached on Monday-Thursday and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arlen Soderquist

ARLEN SODERQUIST  
PRIMARY EXAMINER